

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ROBERT J. KLEBE

§

Plaintiff,

§

v.

§

UNIVERSITY OF TEXAS SYSTEM and
UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER AT SAN ANTONIO

CIVIL ACTION NO. 1:08-CV-00091-AWA

§

§

§

Defendants.

§

**PLAINTIFF'S OBJECTIONS TO DEFENDANTS'
DEPOSITION EXCERPTS and SUPPLEMENTAL TENDER**

TO THE HONORABLE COURT: Plaintiff files his objections to Defendants' designated deposition excerpts, and supplemental tender of deposition excerpts, as follows:

A. Alan Dean

Defendants have tendered the entire Dean deposition, pp. 1-171. Plaintiff objects to the following portions of the Defendants' tender.

1. P. 1 – p. 8, l. 14, is repetitious and cumulative of Plaintiff's tender.
2. P. 8, l. 15 – p. 19, l. 11 is irrelevant. Rule 402, FRE.
3. P. 19m l. 21 – p. 28, l. 2 is irrelevant, and contains counsel side-bar comments. Rule 402, FRE.
4. P. 28, l. 14 – p. 29, l. 13 is irrelevant. Rule 401, FRE.
5. P. 29, l. 24 – p. 30, l. 9 is irrelevant. Rule 402, FRE.
6. P. 31, l. 4-6 is irrelevant. Rule 402, FRE.
7. P. 34, l. 20 – p. 36, l. 1 is irrelevant. Rule 402, FRE.
8. P. 37, l. 11 – p. 38, l. 21 was not originally tendered by Plaintiff, but in light of Defendants' tender this segment is tendered by Plaintiff as follows:

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11 Q Right. Now, in addition to these
12 e-mails between you and Dr. Herman, did you have
13 occasion to talk to him about his concerns?

14 A I don't recall ever having a
15 discussion one-on-one with him regarding this or
16 anything. Except when I left the University, we
17 had the exit interview.

18 Q Well, tell us about that.

19 A The exit interview?

20 Q Yeah.

21 A It was -- it was good. Very good. I
22 mean, we had a nice -- really, it was a very good
23 discussion about the future of the Health Science

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1 Center, his role in it, what I had accomplished,
2 very friendly, lasted probably a half hour.

3 Q Did he indicate any displeasure with
4 the quality of your performance?

5 A Not at all.

6 Q What was his role at that time? He
7 had moved on from Department Chair, hadn't he?

8 A Correct. He was Vice President of
9 Research, VPR.

10 Q As far as you could tell, he was
11 happy with your work?

12 A Yes.

13 Q And why were you leaving? You had
14 been offered this job back here in Birmingham?

15 A That is correct. I was -- had been
16 called about this job, I would say, nine months
17 before I left to see if I had an interest.

18 Q So if D. Herman were to testify that
19 he had some disappointment in your job
20 performance, he didn't convey that to you?

21 A No, he did not.

9. P. 39, l. 14-20 is irrelevant. Rule 402, FRE.
10. P. 40, l. 21 – p. 40, l. 5 is irrelevant. Rule 402, FRE.
11. P. 42, l. 7 – p. 49, l. 18 is irrelevant and contains counsels' side bar comments.
Rule 402, FRE.

12. P. 51, l. 3 – p. 52, l. 2 is irrelevant. Rule 402, FRE.
13. P. 52, l. 10 – p. 53, l. 12 is irrelevant. Rule 402, FRE.
14. P. 54, l. 18-20, counsel's objection is not well taken, and should be denied.
15. P. 55, l. 9-11 is irrelevant. Rule 402, FRE.
16. P. 55, l. 19-22 is irrelevant. Rule 402, FRE.
17. P. 56, l. 9 – p. 62, l. 11 is irrelevant and contains counsels' side-bar comments. Rule 402, FRE.
18. P. 64, l. 5 – p. 90, l. 14 is irrelevant, contains counsels' side-bar comments, and objections to irrelevant material. Rule 402 and 403, FRE.
19. P. 90, l. 22, -- p. 91, l. 10 is irrelevant. Rule 402, FRE.
20. P. 92, l. 13 – p. 106, l. 5 is irrelevant. Rule 402, FRE.
21. P. 106, 19 – p. 107, l. 20 is irrelevant. Rule 402, FRE.
22. P. 108, l. 15 – p. 109, l. 17 is irrelevant. Rule 402, FRE.
23. P. 110, l. 18 – p. 111, l. 19 is irrelevant. Rule 402, FRE.
24. P. 112, l. 18 – p. 116, l. 12 is irrelevant. Rule 402, FRE.
25. P. 117, l. 11 – p. 126, l. 2 is irrelevant and contains counsels' colloquy regarding an evidentiary privilege. Rule 402, FRE.
26. P. 127, l. 4-17 is irrelevant. Rule 402, FRE.
27. P. 128, l. 3 – p. 129, l. 16 is irrelevant. Rule 402, FRE.
28. P. 130, l. 5 – p. 131, l. 18 is irrelevant and contains side-bar colloquy between counsel. Rule 402, FRE.
29. P. 133, l. 1 – p. 136, l. 5 is irrelevant and contains side-bar colloquy between counsel. Rule 402, FRE.
30. P. 136, l. 15, -- p. 138, l. 17 is irrelevant and contains side-bar colloquy between counsel and the witness. Rule 402, FRE.
31. P. 140 l. 7 – p. 171 is irrelevant and contains side-bar colloquy between counsel and the witness. Rule 402, FRE.

B. Barry Norling

Defendants have tendered the deposition of Barry Norling from p. 46, l. 13 – p. 55, l. 25.

Plaintiff objects to this tender as follows:

32. P. 49, l. 10 – p. 54, l. 15 as evidenced by the answers, invite the witness to speculate about matters outside his personal knowledge, and contain the colloquy of counsel regarding evidentiary objections.
33. P. 54, l. 16 – p. 55, l. 13 is irrelevant. Rule 402, FRE.

Respectfully submitted,

R. Robert Willmann, Jr.
Attorney at Law
P.O. Box 460167
San Antonio, Texas 78246
Telephone: 210/828-3444
Facsimile: 210/828-1767

JUDGE, KOSTURA & PUTMAN, P.C.
The Commissioners House at Heritage Square
2901 Bee Cave Road, Box L
Austin, Texas 78746
Telephone: 512/328-9099
Facsimile: 512/328-4132



By: _____
John Judge
State Bar No. 11044500
Federal Bar No. 81191

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Lars Hagen
Assistant Attorney General
Office of the Attorney General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: 512/463-2120
Facsimile: 512/320-0667



John Judge